

AFFIDAVIT FOR CRIMINAL COMPLAINT

I, Edwin R. Guzman-Martinez, being first duly sworn, do here by depose and state that:

BACKGROUND

1. I am employed as a Task Force Officer with the Immigrations and Customs Enforcement (ICE), Homeland Security Investigations (HSI), San Juan Office, in Puerto Rico. I have been employed as a Task Force Officer since January of 2014. As a Task Force Officer, my responsibilities include conducting investigations of alleged manufacturing, distribution, or possession of controlled substances (Title 21, United States Code, Section 841(a)(1), importation of controlled substances (Title 21, United States Code, Section 952(a), smuggling of goods into the United States (Title 18, United States Code, Section 545), and related offenses.
2. I have attended the Puerto Rico Law Enforcement Academy in Gurabo, Puerto Rico. I have been trained in conducting investigations related to narcotics smuggling, interdiction and distribution activities. I am currently assigned to the Public Safety Group, where investigations commonly conducted are related to violations of Titles 8, 18, 19, 21 and 31 of the United States Code (USC).
3. Because this Affidavit is submitted for a limited purpose, I have not included details of every aspect of this investigation. I am thoroughly familiar with the information contained in this Affidavit, either through personal investigation or discussions with other law enforcement officers who have interviewed individuals or personally have obtained information, which they in turn have reported to me.

INVESTIGATION

4. On February 14, 2023, Homeland Security Investigations (HSI) Public Safety Group (PSG) was contacted in reference to an arrest that had been made by the Puerto Rico Police Department (PRPD). Task Force Officers (TFO) of HSI PSG responded to the Caguas Narcotics Division to assist with the investigation. The following information was obtained throughout the course of the investigation.

5. On February 14, 2023, at approximately 3:00 a.m., PRPD agents executed a state arrest warrant for **Diego FERNANDEZ-Santos** who resides at Calle Pedro Santos, # 6, Barrio Mogote in the town of Cayey, Puerto Rico (**TARGET RESIDENCE**). As PRPD agents arrived at the **TARGET RESIDENCE**, one of the PRPD agents observed a subject opening a window on the second floor of the **TARGET RESIDENCE** from the inside. The PRPD agent yelled “police” and then observed the subject retreat away from the window. A PRPD agent ran towards the back of the residence in order to prevent the subject from absconding from the rear door of the residence. While using his flashlight, the PRPD agent then observed a subject open the back door of the second floor. The PRPD agent identified himself by yelling “Police”. The agent was able to identify the subject as **FERNANDEZ-Santos** from previously seen law enforcement records.

6. **FERNANDEZ-Santos** then threw what appeared to be a black in color fanny pack outside from the second floor of the residence and quickly went back inside. One of the PRPD agents stayed with the black fanny pack until the PRPD technical service team arrived and took photos. Inside the black fanny pack was a (1) Taurus Pistol, black and tan in color, model millennium G2, caliber 9mm, bearing serial number TKP39955, loaded with twelve rounds of 9mm ammunition (including one in the chamber), (2) one 9mm

magazine loaded with eleven rounds of 9mm ammunition, and (3) two photo identifications with the name of **Diego FERNANDEZ-Santos**.

7. Simultaneously, the PRPD entry team gained access to the interior of the **TARGET RESIDENCE** through the front door. As PRPD agents were clearing the first floor, agents heard running footsteps coming from the second floor. As agents were approaching the second floor, they witnessed **FERNANDEZ-Santos** running through the hallway from what appeared to be the back door of the second floor to the opposite side of the house. Agents then gave **FERNANDEZ-Santos** commands to get on the ground. **FERNANDEZ-Santos** complied with the commands and PRPD agents were able to place **FERNANDEZ-Santos** under arrest.

8. PRPD agents continued with the procedure to clear the **TARGET RESIDENCE** for their safety and also found a female in the residence who happened to be **FERNANDEZ-Santos'** mother (Carmen Ana Santos Malave). They also noticed in the closet of the first bedroom on the left-hand side of the second floor, in plain view, what appeared to be the partial barrel (sticking out of the backpack) of a rifle inside of a blue backpack. Agents also noticed a rifle next to the blue backpack. It was later determined that the rifle that had a partial barrel sticking out of the backpack was a Guntec USA, black in color, modified to function fully automatically (capable of firing more than one round of ammunition, without manual reloading, by a single pull of the trigger), loaded with a magazine with sixteen (16) rounds of 7.62 X 39 caliber ammunition (including one in the chamber), bearing serial number EF5856. A dry fire test was conducted of the Guntec rifle, confirming that it is a machine gun. Also inside of the blue backpack was: (1) one drum magazine, caliber .40, loaded with twelve (12) rounds of .40 caliber ammunition, (2) one-

hundred twenty-nine (129) rounds of 9mm caliber ammunition, (3) two (2) rounds of 5.56 caliber ammunition and (4) seventy-two (72) rounds of 7.62 X 39 caliber ammunition. It was later determined that the rifle that was next to the backpack was an airsoft rifle.

9. PRPD agents also found two cellphones. One of the cellphones was in **FERNANDEZ-Santos**'s pant pocket. The other cellphone was found on top of the bed of the bedroom where the rifles were found.

10. The PRPD technical service team took the respective photos of the evidence.

11. HSI agents arrived at the Caguas Narcotics Division and proceeded to provide **FERNANDEZ-Santos** with a written form advising him of his Miranda Rights. **FERNANDEZ-Santos** stated that he understood his rights and voluntarily waived them and agreed to speak to HSI agents. **FERNANDEZ-Santos** stated that at approximately 2 a.m. he was watching movies when he heard the sounds of vehicles, and proceeded to look through the window and quickly went to his mother's room to let her know that there were lots of vehicles outside of the residence.

12. **FERNANDEZ-Santos** stated that quickly after notifying his mother, he heard the front door being breached, with agents yelling: "police" and he was arrested.

13. **FERNANDEZ-Santos** also stated that agents found a black fanny pack of his outside of the residence and stated that he did not know where the agents got it from.

14. **FERNANDEZ-Santos** stated that the only item that was in plain view was an airsoft rifle.

15. **FERNANDEZ-Santos** also stated that he was escorted to the first floor of the residence. When PRPD agents found what was seized, he was escorted back to the second floor to witness the items that were seized.

16. **FERNANDEZ-Santos** also stated that he was arrested on a Federal Indictment for drug charges (14-cr-00225-FAB), and that he served prison time for those offenses. Specifically, **FERNANDEZ-Santos** was sentenced on November 4, 2015 to sixteen months for violations of 21 U.S.C. s. 841(b)(1)(C) and 18 U.S.C. 922(g)(1) to be served concurrently, and for sixty months for violations of 18 U.S.C. 924(c) to be served consecutively. **FERNANDEZ-Santos** was later released on three-year term supervised release, which he was serving at the time of the incident. During a US Probation Inspection, **FERNANDEZ-Santos** was arrested due to a possession of a firearm.

17. HSI agents proceeded to interview Carmen Ana Santos Malave (**FERNANDEZ-Santos**' mother) and provided Santos Malave with a written form advising her of her Miranda Rights. Santos Malave stated that she understood her rights and voluntarily waived them and agreed to speak to HSI agents.

18. Santos Malave stated that she heard a loud noise and when she got up, she saw that they (PRPD agents) had **FERNANDEZ-Santos** on the floor.

19. Santos Malave stated that she only lived with her son **FERNANDEZ-Santos** in the residence and that no one else has access to the residence nor stays in the residence.

20. Santos Malave also stated that her other son left the residence to start living with his wife a few years ago.

21. The investigation revealed that no firearms or ammunition, including the type mentioned above, are manufactured in Puerto Rico. Therefore, the investigation concluded

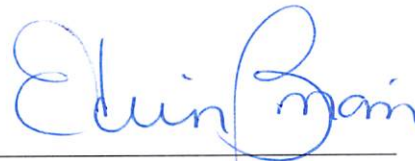
* these amendments were confirmed by Agent Guzman by telephone. MDM at 2:36 pm 5

that the above-mentioned firearms had been shipped or transported in interstate or foreign commerce.

CONCLUSION

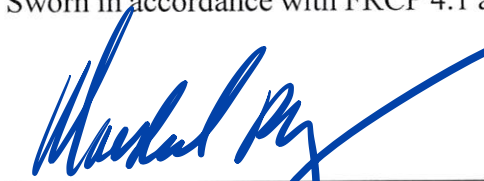
22. Based upon my training, experience, and facts concerning this investigation, I respectfully believe that sufficient probable cause exists to show that **FERNANDEZ-Santos** possessed the above-described firearm in violation of **18 U.S.C. s. 922(g)(1) (Possession of a Firearm by a Felon)**.

Affiant hereby declares that the foregoing is true and correct to the best of Affiant's knowledge pursuant to the investigation conducted in this matter.



Edwin R. Guzman-Martinez
Task Force Officer
Homeland Security Investigations

Sworn in accordance with FRCP 4.1 at 2:36pm on the 15th day of February of 2023.



Honorable Marshal D. Morgan
United States Magistrate Judge
United States District Court
District of Puerto Rico